DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Center for Devices and
Radiological Health
2098 Gaither Road
Rockville, Maryland 20850

MAY 27 2003

Via Federal Express
WARNING LETTER

Gerald W. Bryant, MSN, RN
Institutional Review Board Chair
Lake Charles Memorial Hospital
1701 Oak Park Boulevard
Lake Charles, Louisiana 70601

Dear Mr. Bryant:

The purpose of this letter is to inform you of objectionable practices and activities found during a Food and Drug Administration (FDA) inspection of your Institutional Review Board (IRB). Ms. Dana M. Daigle, investigator from FDA's New Orleans District Office, conducted the inspection during the period of February 4 through 6, 2003. The purpose of the inspection was to determine whether your IRB procedures complied with Title 21 Code of Federal Regulations (21 CFR), Part 50 - Protection of Human Subjects, Part 56 – Institutional Review Boards, Part 812 – Investigational Device Exemptions and Part 814 – Premarket Approval of Medical Devices. These regulations apply to clinical studies of products regulated by the FDA.

Our review of the inspection report prepared by the district office revealed violations of pertinent regulations. You received a Form FDA 483, "Inspectional Observations," at the conclusion of the inspection that listed the deviations noted, and Ms. Daigle discussed those observations with you and [redacted]. At the close of the discussion, you stated that you would prepare a written response to the items listed on the form, but as of this date, we have not received a response from you. The deviations found during the recent inspection are listed below.

Failure to conduct continuing reviews of approved research (21 CFR 56.109)

Pursuant to 21 CFR 56.109(a), IRBs are required to review all research activities. Our inspection revealed that the IRB did not conduct continuing reviews of studies, adverse events and safety reports.

During the inspection, you indicated that you were unsure about the IRB's responsibilities in the area of continuing review. IRBs are required, under 21 CFR 812.64, to conduct continuing review of investigations in accordance with 21 CFR Part

56. To ensure that the rights and welfare of human subjects are protected, IRBs are responsible for conducting continuing review of research at appropriate intervals depending on the degree of risk, but not less than once per year. 21 CFR 56.108(a)(2) and 56.109(f). Please refer to the complete guidance in the "FDA Information Sheets, Guidance for Institutional Review Boards and Clinical Investigators," section "Continuing Review After Study Approval," on the Internet at http://www.fda.gov/oc/ohrt/irbs.

Improper use of expedited review (21 CFR 56.110(b))

Pursuant to 21 CFR 56.110(b), IRBs may use expedited review for research involving no more than minimal risk or minor changes. However, for a high risk humanitarian use device (HUD), the IRB Chair initially approved the study and approved a protocol amendment and revised informed consent form via expedited review. FDA recognizes that emergencies arise where an unapproved device may offer the only possible alternative for a life-threatening situation or serious disease or condition in cases where an Investigational Device Exemption (IDE) either does not exist, or the proposed use is not approved under an existing IDE, or the physician or institution is not approved under the IDE. FDA will allow the use of an unapproved device in such an emergency without IRB approval, provided that the physician later justifies to the IRB and FDA that an emergency actually existed. 21 CFR 56.104. Please refer to the requirements, conditions, and reporting procedures for emergency use of unapproved devices described in FDA guidance located at http://www.fda.gov/cdrh/manual/unappr.html. For additional information related to HUDs, please refer to the guidance located at http://www.fda.gov/cdrh/ode/guidance/1381.html.

Failure to maintain records of IRB deliberations (21 CFR 56.115(a)).

FDA regulations require an IRB to maintain adequate documentation of its activities (e.g., documentation submitted by clinical investigators (CIs), minutes, copies of all correspondence between the IRB and CIs, etc.). 21 CFR 56.115. The minutes of IRB meetings must be in sufficient detail to show the attendance at the meetings, actions taken, and the specifics of who voted and how. 21 CFR 56.115(a)(2). Your IRB files did not include documentation of an emergency use by a CI of a device, documentation of dates or length of approval periods for device studies, and documentation of the number of members voting for, against, and abstaining from actions taken at meetings.

Failure to establish written standard operating procedures (SOPs) governing reporting of unanticipated problems (21 CFR 56.108(b)(1)).

The IRB must establish and follow written procedures for ensuring prompt reporting to the IRB, appropriate institutional officials, and FDA of any unanticipated problems that involve risks to human subjects or others. 21 CFR 56.108(b)(1). Your IRB lacks these types of procedures.

The violations listed above are not intended to be an all-inclusive list of objectionable practices that may exist at your IRB. The IRB is responsible for adhering to each applicable requirement of the Federal Food, Drug, and Cosmetic Act (21 USC 321 et seq.) and all pertinent federal regulations.

Please advise this office, in writing, **within fifteen (15) working days of receipt of this letter,** of the specific steps you have taken or plan to take to correct these violations and to prevent the recurrence of similar violations. Failure to respond can result in the initiation of regulatory action without further notice, including, as described in 21 CFR 56.120, withholding approval of new studies, directing that no new subjects be added to on-going studies, terminating on-going studies, and notifying relevant State and Federal regulatory agencies.

Please address your correspondence to the Food and Drug Administration, Center for Devices and Radiological Health, Office of Compliance, Division of Bioresearch Monitoring, Program Enforcement Branch II (HFZ-312), 2098 Gaither Road, Rockville, Maryland 20850, Attention: Linda Godfrey.

A copy of this letter has been sent to FDA's New Orleans District Office, 6600 Plaza Drive, Suite 400, New Orleans, Louisiana 70127. We request that a copy of your response also be sent to that office.

If you have any questions, feel free to contact Linda Godfrey at (301) 594-4723 extension 134.

Sincerely yours,

for Timothy Ulatowski
Director
Office of Compliance
Center for Devices and
Radiological Health

cc: Kristina C. Borror, Ph.D.
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